

# **Deficiency Progress Report – Update 1**

Report Submitted: June 25, 2010

## **CUPA: Long Beach Department of Health and Human Services**

**Evaluation Date:** January 26 and 27, 2010

### **Evaluation Follow-up Team:**

Kareem Taylor, Cal/EPA  
Fred Mehr, Cal EMA  
Terry Snyder, SWRCB

### **Corrected Deficiencies:**

**Next Progress Report (Update 1) Due:** **September 30, 2010**

[Please update the deficiencies below that remain outstanding.](#)

- 1. Deficiency:** The CUPA did not remit the collected state surcharge of \$42,178 that was reported on its fiscal year (FY) 2008/2009 Annual Single Fee Summary Report (Report 2). During the evaluation, the CUPA presented a FY 2008/2009 surcharge check dated 1-21-10 that was ready to send.

In addition, the CUPA did not remit the collected CalARP surcharge for 3 facilities for FYs 2007/2008 and 2008/2009.

One facility, Thums Long Beach Company, has not been billed the CalARP surcharge since 2004 (5 years).

**Preliminary Corrective Actions:** By April 27, 2010, the CUPA will remit to the Secretary the collected surcharge from FY 2007/2008 and 2008/2009.

The CUPA will bill Thums Long Beach Company the CalARP surcharge for each year (5 years) the business was regulated. The CUPA will remit the collected surcharge within 30 days of the end of the quarter.

**CUPA's 1<sup>st</sup> Update (6-25-10):** COMPLETED. A cover letter, surcharge transmittal report and check for \$42,503 was submitted to California Air Resources Board on January 28, 2010.

PENDING. A cover letter and bill for the CalARP surcharge was sent to THUMS on February 23, 2010. THUMS paid the surcharge bill on March 15, 2010. All of the CalARP surcharge will be remitted in the next surcharge transmittal report.

**Cal/EPA's 1<sup>st</sup> Response:** Along with the next progress report, please submit to Cal/EPA a copy of the Surcharge Transmittal(s) and check copy(ies) of the past due CalARP surcharge from FYs 2007/2008 and 2008/2009.

**CUPA's 2<sup>nd</sup> Update:** Enter Update Here

2. **Deficiency:** The CUPA did not report the CalARP surcharge billed and collected from 3 facilities on the Report 2s for FYs 2007/2008 and 2008/2009. The CUPA's billing system inquiry showed that the CalARP surcharge was billed to the 3 facilities; however, the surcharge was not designated to the correct program and/or FY.

**Preliminary Corrective Actions:** By April 27, 2010, the CUPA will submit revised Report 2s for FYs 2007/2008 and 2008/2009.

**CUPA's 1<sup>st</sup> Update (6-25-10):** PENDING. See Deficiency #2. All of the CalARP surcharge will be remitted in the next surcharge transmittal report.

**Cal/EPA's 1<sup>st</sup> Response:** The CUPA did not revise the total CalARP surcharge billed and collected in its FYs 2007/2008 and 2008/2009 Annual Single Fee Summary Reports (Report 2s). Refer to the comments on the attached documents. Please revise the FYs 2007/2008 and 2008/2009 Report 2s to accurately depict the amount of CalARP surcharge billed and collected.

**CUPA's 2<sup>nd</sup> Update:** Enter Update Here

3. **Deficiency:** In some cases, the CUPA is not following-up and/or documenting return to compliance (RTC) for businesses cited for violations in Notices to Comply and inspection reports/Notices of Violation (NOV).

**Preliminary Corrective Actions:** By July 27, 2010, the CUPA will determine the number of businesses that have unaddressed violations. The CUPA will follow-up with those businesses and document their actions with RTC certifications, reinspection reports, enforcement letters, corrected forms, etc.

On the 1<sup>st</sup> progress report, the CUPA will submit to Cal/EPA the status of their follow-up process. Include the total number of businesses the CUPA followed-up with that had unaddressed violations.

**CUPA's 1<sup>st</sup> Update (6-25-10):** Business Emergency Plan Program: Since the audit, much effort has been made by the inspectors and administrator to determine the number of businesses with unaddressed violations. In addition, all of the BEP files were reviewed and email addresses were added to the database when found. Many emails, phone calls

and site visits were conducted in order to gain facility compliance. As a result, many of the outstanding violations were corrected. The statistics are as follows:

# of business with outstanding violations	15% (198/1280)
# of business with outstanding violations > 3 months old	8% (103/1280)

Hazardous Waste Generator Program: It was discovered that in some cases, violations are being closed by the inspector but the file is not routed thru the administrator or the supervisor. Thus, the number of unaddressed violations is actually lower than the database reflected at the time of the audit. In order to eliminate this, the supervisor has reinstructed the inspectors of the correct procedure, so this will be eliminated.

# of business with outstanding violations	8% (82/1014)
# of business with outstanding violations > 3 months old	5% (48/1014)

Underground Storage Tank Program: Since the audit, the inspectors and administrator have developed an Excel database to track facilities, inspections and violations. In addition, since Fire Prevention does not have clerical support, the administrator provided letters to the inspector to mail to facilities that have annual monitoring certifications past due or due within 60 days. As a result, the inspector reports that many facilities have already performed or scheduled their annual monitoring test. The statistics are as follows:

# business with outstanding violations	28% (42/152)
# business with outstanding violations > 3 months old	16% (24/152)
# business with outstanding violations > 4 months old	11% (16/152)

It is common that the repairs required to pass the annual monitoring test may be of a major cost and/or capital investment and thus it takes longer to schedule and fix a violation since bids may be required in order to secure a contractor.

The CUPA will continue to work diligently on it's established strategy to lower the percentage of facilities with outstanding violations. The CUPA expects to see continued success with this approach.

**Cal/EPA's 1<sup>st</sup> Response:** Cal/EPA appreciates the CUPA's efforts in following-up with facilities with outstanding violations. On the next progress report, please report the number of facilities the CUPA followed-up with and, out of those, how many returned to compliance. In addition, please submit three recent examples of CUPA follow-up actions (RTC certifications, reinspection reports, enforcement letters, etc).

- **Cal EMA's Response:** This deficiency remains in the process of being corrected. Cal EMA looks forward to following the CUPA's progress on business submitting their annual inventory or a no change certification. Please continue to provide

updates for the total number of facility submittals of annual inventory or a no change certification.

**CUPA's 2<sup>nd</sup> Update:** [Enter Update Here](#)

4. **Deficiency:** The CUPA is not ensuring that businesses are annually submitting a hazardous materials inventory or certification statement on or before March 1.

During the Cal EMA file review, 40% of the files reviewed lacked a current inventory or certification. This percentage was validated by the CUPA database.

**Preliminary Corrective Actions:** By April 27, 2010, the CUPA will report to Cal/EPA (1<sup>st</sup> progress report) the number of businesses that have submitted a hazardous materials inventory or certification statement.

In addition, the CUPA will report its total follow-ups on businesses that did not submit a hazardous materials inventory or certification statement by March 1.

**CUPA's 1<sup>st</sup> Update (6-25-10):** A BEP mailout was completed on March 12, 2010. The mailout included blank BEP packages sent to 157 facilities and a recertification statement sent to 350 facilities. In addition, the BEP inspectors are collecting recertification statements during the course of an inspection, if required. All of the BEP files were recently reviewed and email addresses were added to the database when found. Many emails, phone calls and site visits have been conducted in order to gain facility compliance. The statistics are as follows:

# businesses lacking a current inventory or certification	25% (316/1280)
# businesses lacking a current inventory or certification > 3months late	15% (187/1280)

The CUPA will continue to work diligently on it's established strategy to lower the percentage of facilities with outstanding BEPs or certifications. The CUPA expects to see continued success with this approach.

**Cal/EPA's 1<sup>st</sup> Response:** Cal/EPA appreciates the CUPA's efforts to ensure that businesses are submitting their annual inventory or a "no change" certification. There appears to be a significant number of businesses, 25%, that have not submitted either one. On the next progress report, update Cal/EPA on how many of the 316 businesses that lack a current inventory or certification have returned to compliance. Of those businesses that continue to be noncompliant, what follow-up actions have the CUPA taken to compel compliance.

**CUPA's 2<sup>nd</sup> Update:** [Enter Update Here](#)

**5. Deficiency:** The CUPA has not issued an Underground Storage Tank (UST) permit to any UST facilities due to a technical problem with its BlueZone permit generating and fee management program. Some Unified Program Facility Permits (UPFP) found in the facility files did not categorize facilities with USTs as part of the UST program element. The UPFP for UST facilities is missing the following:

- The number of tanks at the facility
- UST Tank Identification Number(s)
- Monitoring requirements of both tanks and piping (or an attached approved monitoring plan)

Information related to UST program element categorization, fee payment records, and the number of tanks is stored in the CUPA's database.

**Preliminary Corrective Actions:** By April 27, 2010, the CUPA will issue permits to UST facilities that contain:

- A notation of all applicable program categories
- The number of tanks at the facility
- UST Tank Identification Number(s)
- Monitoring requirements (or an attached approved monitoring plan)

The CUPA may develop a template that contains choices of monitoring options to select or the monitoring requirements may be displayed on the permit as: "Monitoring or programming for monitoring will be conducted at the locations of the following equipment, if installed: monitoring system control panels; sensors monitoring tank annular spaces, sumps, dispenser pans, spill containers, or other secondary containment areas (e.g. double-walled piping); mechanical or electronic line leak detectors; and in-tank liquid level probes (if used for leak detection). Also monitoring options for automatic pump shutdown, fail safe operation, or other programming options will be specified.

Additionally, if the CUPA wants to list equipment test due dates and other pertinent information on the permit they may do so.

**CUPA's 1<sup>st</sup> Update (6-25-10):** A work request has been submitted to Technical Services on April 1, 2010 to amend the CUPA permit regarding the remainder of the deficiency, i.e. - notation of all applicable program categories, number of tanks at the facility and monitoring requirements of both tanks and piping. Technical Services reports that the permit changes are in progress, but have not been completed due to workload constraints and project priorities.

It is the position of the Long Beach CUPA that the need to include the State UST Identification Numbers on the permit is open to question. The regulations may require the State UST ID numbers to be included on the permit, but the State Water Resources Control Board does not collect any information using these numbers. After surveying all eight (8) CUPAs in Los Angeles County and Ventura County, all are in concurrence that the State UST ID number serve no useful purpose. This issue has been discussed at the UST Technical Advisory Group (TAG) meeting and the SWRCB representative who was at the meeting was also in agreement. Therefore, the Long Beach CUPA requests that this portion of the deficiency be rescinded and that the regulations be amended to remove this provision.

In addition, the City of Long Beach Blue Zone billing and permitting system does not permit the addition of this information. In order to include the State UST ID numbers, the Long Beach CUPA would be required to develop a 2<sup>nd</sup> offline sheet to the permit that would include this information. All of the UST permits would have to be mailed to Fire Prevention where they would have to be married up with the 2<sup>nd</sup> sheet and then mailed out to the facilities. This dramatically increases the workload on Fire Prevention clerical support. Currently, Fire Prevention does not have clerical staff and there is a hard hiring freeze in the City due to the current economic conditions.

The CUPA will continue to follow through on this requirement and will update CalEPA as appropriate progress occurs.

**Cal/EPA's 1<sup>st</sup> Response:** Please refer to SWRCB's response.

- **SWRCB's Response:** The SWRCB appreciates the effort being made by the CUPA to amend their permit to indicate that UST portion of the facility's operation has been permitted, the number of tanks denoted, and the monitoring requirements. Please keep us advised of any progress made on this portion of the deficiency.

With regard to the State UST ID number, we discovered that the language used in the CUPA's update was copied from Los Angeles County (LAC) CUPA's 1<sup>st</sup> update, dated July 3, 2007 to the Summary of Findings from their March 28 and 29, 2007 CUPA evaluation. Since that time, the SWRCB adopted regulations, effective 1/18/08, that define the State UST ID number as a number assigned by the local agency. This is Data Dictionary element 432, as defined in CCR Title 27, Div 3, Subdivision 1, Chapter 3 (see excerpt from the Data Dictionary below). The State Tank ID # is found on UPCF form, entitled "UST Operating Permit Application -Tank Information" in CCR Title 27 section 15400.1. A unique identifier for each tank is critical for compliance and enforcement tracking purposes. The CUPA is required to collect and retain the information submitted on this form.

As part of the LAC CUPA evaluation process the SWRCB reviewed the LAC CUPA's permit documentation and concluded that the permit document does not have to show the UST ID number since the permit package includes identifying information that can be used to find the UST ID number. Therefore, if the CUPA's amended permit (use additional template pages if necessary) includes all the UST specific permit elements stated on the LAC CUPA permit as shown below (also copy attached), the State UST ID number does not have to appear on the operating permit itself.

Please provide the SWRCB with a copy of your new permit, after you have revised it to address the items noted above. The SWRCB will review the new permit and provide any necessary edits for inclusion in the next permit or approve it and consider this deficiency corrected.

Excerpt from the Data Dictionary:

B. UST Operating Permit Application Tank Information					
ID	ELEMENT	EDIT CRITERIA / CODES	LENGTH	TYPE	INFORMATION DESCRIPTION
1	Facility ID Number	2 AN county- 3 AN jurisdiction 6 AN facility number.	11	AN	Number to allow cross linking of data. County and jurisdiction number from tax code list. This number is assigned by the CUPA. This is the unique number which identifies the facility.
432	<b>Tank ID #</b>		6	AN	This is a unique tank number used by the owner and Local Agency to identify the tank. The Local Agency will assign the Tank ID# as the <b>permanent State tank identification number.</b>

Excerpt from the LAC CUPA UPFP (UST elements):

Underground Storage Tank (UST) Program: California Health and Safety Code, Division 20, Chapter 6.7 and 6.75, and the California Code of Regulations, Title 23, Chapters 16 and 18.

The permittee that is operating a UST must comply with the following:

- Maintain all UST related unified program forms at the facility.
- Comply with the requirements of the California Code of Regulations, Chapter 16, Article 5 in the event of a spill, leak or other unauthorized release. Additionally, the permittee must comply with a release response plan approved by the administering agency.
- The approved monitoring, response, and plot plans shall be maintained on site with the permit.
- Must notify the administering agency within 30 days of any changes in the usage of any UST including: storage of a new hazardous substance, change in monitoring procedures, and change in owner or operator.
- Perform yearly maintenance testing of all leak detection equipment and provide documentation of such testing to the administering agency.
- Obtain approval from the administering agency and local fire and building authorities prior to modifying any UST system.
- Ensure that written records of all monitoring performed is maintained on site by the operator and is available for inspection for a period of at least 3 years from the date the monitoring was performed.
- Submit annual permit fees
- Submit an annual report documenting compliance with the above conditions with 30 days of the anniversary of the permit issuance date.

**CUPA's 2<sup>nd</sup> Update:** [Enter Update Here](#)

6. **Deficiency:** The CUPA internally creates permits for UST facilities before compliance is verified. The permits are usually not issued directly to UST facility owners/operators due to problems with the BlueZone permitting program.

**Preliminary Corrective Actions:** By April 27, 2010, the CUPA will verify that UST facilities are in compliance with the law before a permit is issued.

On the 1<sup>st</sup> progress report, the CUPA will submit to Cal/EPA an action plan stating how UST facility compliance will be verified before a permit is issued.

**CUPA's 1<sup>st</sup> Update (6-25-10): COMPLETED.** A process to withhold issuance of a permit based on non-compliance was discussed with the UST inspectors, CUPA administrator and CUPA billing clerk. A policy was developed and procedure 00-7A (Unified Program Inspection and Enforcement Plan) was revised. Withholding of the CUPA permit will commence with the 2010/2011 billing cycle in October 2010.

**Cal/EPA's 1<sup>st</sup> Response:** On the next progress report, update Cal/EPA on the implementation of the new permitting policy. Please refer to SWRCB's response.

- **SWRCB's Response:** The SWRCB appreciates the effort being made by the CUPA to ensure permits will not be issued without verifying compliance. Please provide the SWRCB with a copy of the policy developed and procedure 00-7A.



Once the SWRCB determines that the CUPA is implementing this policy, the SWRCB will consider this deficiency corrected.

**CUPA's 2<sup>nd</sup> Update:** Enter Update Here